Abstract Proceedings of the Travancore Legislative Council.

The Council met in the Dewan's room, Public Offices, at 12 noon on Friday the 13th December 1918/28th Vrischikam 1094.

Present.

DEWAN BAHADUR M. KRISHNAN NAIR ESQ., B. A. & B. L.,
DEWAN.....*Presiding.*

V. Subba Aiyar Esq., B. A. & B. L.
N. Subrahmanya Aiyar Esq., M. A.
R. Mahadeva Aiyar Esq., B. A.
Rao Bahadur K. V. Rengaswami Aiyangar Esq., M. A.
N. Raman Pillai Esq., B. A.
John Kuriyan Esq., B. A., B. C. E.
I. C. Chacko Esq., B. A., B. Sc.
N. Rajaram Rao Esq., B. A.
Paul Daniel Esq., M. A. & L. T.
A. Govinda Menon Esq., B. A.
M. Subrahmanya Pillai Esq.
K. A. Krishna Aiyangar Esq., B. A & B. L.
R. Gopala Pillai Esq., B. A. & B. L.

K. Narayanan Pandalai Esq., B. A. & B. L.....*Secretary.*

The Secretary reported that the Chitties Bill and the Criminal Law Amendment Bill, which were finally passed by the Council on the 30th September 1918, received the assent of His Highness the Maha Raja on the 8th December 1918, and that they became law as Regulations III and IV of 1094, respectively.

THE POLICE REGULATION AMENDMENT BILL.

Mr. Subba Aiyar presented the report of the Select Committee on the Police Regulation Amendment Bill, and moved that the report and the Bill be taken up for consideration at once.

Seconded by Mr. Mahadeva Aiyar.

Carried.

SECTION 3.

Mr. Krishna Aiyangar moved that the words "used in this Regulation" be inserted between the words "expressions" and "which" in line 1 of Clause (13), and that Clause (13) be numbered as a separate sub-section (*b*) of the Section, the remaining portions of the Section being numbered as sub-section (*a*).

Mr. Subba Aiyar accepted the amendment, and it was carried.

SECTIONS 11, 12 AND 13.

Mr. Gopala Pillai, in moving that Sections 11, 12 and 13 be deleted, spoke as follows :—

"I regret I have to oppose the retention of the provisions of Sections 11, 12 and 13 of this Bill which is primarily intended for the preservation of peace and order. Before arriving at this conclusion, I have not failed to realise the importance of the purposes which they are intended to subserve. It is not my intention to obstruct or harass the Government. I am not oblivious of the fact that these provisions have already found their way in the Statute Book, but the gravity of the issue involved has persuaded me to raise my voice, however feeble, against their retention as the law of the land.

Sir, ever after Travancore gave up the idea of extending her conquests and ever after she had stamped out internal dissensions, her Sovereigns, themselves scholars and patrons of literature and learning, laid the foundations of State education and of institutions necessary for developing a higher level of thought, of comfort and of health. Long ago, they won for her the proud appellation of the "Model State" as a result of their arduous and willing labours. The work thus undertaken felt no break, and the policy was kept up by a net-work of schools and colleges spread over the country, carrying education to the door of every house and producing loyal, manly and useful citizens. The atmosphere which the Sovereign and his subjects breathe is one of mutual trust and confidence, so much so that no necessity for this power was felt when the Police Regulation of 1056 was passed or when it was subsequently amended, until the unhappy incident of the Chalai Riots took place in 1083, when Government took exceptional measures for the trial of the case, and, when the case itself was being subjected to the searchlight of the judicial tribunals, the Government hastened to seek the aid of the legislative anvil. Without pausing for a moment for the decision of the case, and when the Courts of

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Law' were engaged in diagnosing the disease, Government began to prescribe remedies for supposed evils for reasons of their own. But the Government action was not allowed to pass unimpeached. When the amending Bill was introduced into the Council in 1084 and when the principle of the Bill was being discussed, it received condemnation in no uncertain terms from the Non-official Members of this Council. Mr. Subrahmanya Aiyar, one of the Non-official Members then said :—'It does not seem necessary to have a Punitive Police in Travancore. The learned Mover, in his Statement of Objects and Reasons, chiefly refers to the recent disturbance in Trivandrum as the basis for the introduction of the Bill. It was not the act of a premeditated mob. This Bill is a slur on the Travancoreans.' Mr. A. Sri Narayanan Tampi observed :—'The situation elsewhere has no analogy to Travancore', and Mr. Udaya Varma Raja, another Non-official Member, also commented upon it adversely. But, in spite of the opposition of these gentlemen of high authority and opinion, Government stood firm and passed the measure. Now, we have had the advantage of the opinion of the highest Court of the land on the subject. The passion which once held sway having died a natural death, let us reconsider the position once taken up in the light of subsequent events. I may say that the foundation on which the Bill of 1084 was drafted is now found to be laid on loose sand. For we find that the High Court, in a very exhaustive judgment, found that the conspiracy set up by the Police was untrue, that the idea of giving a political hue to the incident was subsequently given up by the prosecution, that the incident itself was a spontaneous affair, and that the misconduct of the Police was the indirect cause of the incident. I also submit that the incompetence of the Magistracy which was subsequently noticed by the Government also contributed to the unhappy occurrence of the day. My attempt has been to show that this Judicial pronouncement has cut the ground from under the feet of Government so far as the grounds for the legislation of 1084 are concerned. I have tried to show that, until the year 1083, no necessity was found for legislation of the kind, and after 1084, during a period of ten years, it has not been found necessary to put into operation the provisions which have been embodied in the statute in 1984. A case has therefore yet to be made out for the measure to be retained in the Statute Book. The President of this Council in 1084, on behalf of the Government, observed that, when once the power of imposing Punitive Police was granted, there was the contingency that once in a way it may not be worked properly. My submission is that it is just the reverse. The greater chance is that it may be used improperly. The intelligence that is to be applied for the action to be taken by the Government rests with the Police, who will therefore be shaping the opinions of Government and the District Magistrates. Sir, events have subsequently happened which in the case of a nervous Government perhaps would have called for the imposition of the Punitive Police, but luckily for the State, the stewardship of the State has been in the hands of one, who, by his intimate knowledge of the conditions of the people and commendable equanimity of temper, has been able to gauge the situation correctly. But this cannot be expected always ; for we have known of instances when Government had been influenced to adopt wrong views.

Reading the Sections, I find that Government want to arm themselves with power to appoint additional Police. If it is intended to keep down disturbance, the necessity for the power vanishes when we remember that the Nayar Brigade is maintained at public cost and that they could be made use of under the Criminal Procedure Code without enhancing the burden of taxation. Disability to appeal to ordinary Courts of Law by an aggrieved party when he is wronged by the order of the Executive, erects an Executive above the reach of the chastening control of the Judiciary of the land. This is not a desirable state of affairs. More dangerous than the evils of the law is its administration by the machinery entrusted with the task. The officers are clothed with powers, extensive, indefinite and absolute, with the result that the people, whom the Police are intended to serve, will be placed at their mercy. The power of exemption will be exercised on grounds undisclosed. I cannot also find any reason why a person living thousands of miles away should be held liable for owning property in the disturbed area. A soil congenial to the growth of unbridled oppression is being prepared by these rules of law. I am fortified in my view by what occurred after the Chalai Riots. The High Court observed :—'This indiscriminate way of arresting people was in full swing under the very nose of the officials present. For several days subsequently, there was a veritable reign of terror throughout the Town of Trivandrum.' The public are yet to know what action has been taken by the Government as regards the persons on whom these strictures were passed. The working of the Regulation will accentuate class feelings from which, unhappily, we are not free. We often hear of an elasticity of conscience in the working of the Departments of the State by public servants as a result of class feelings not often successfully brought under control. The cries heard in British India on the working of these provisions do not give us much encouragement. Under these circumstances, a soil is being prepared for a very luxurient growth of unbridled oppression at the hands of the Police.

One salient point that I wish to place before this Council is that they should, before passing this measure, see whether it is in consonance with the spirit of His Highness' rule. The watchword of His Highness, who has been living for his people, is progress, righteousness and mercy. The feeling that His Highness entertains towards his subjects, writ large and indelibly in their bosoms, is no other than what a great Viceroy, speaking of his attitude towards the Indians, told them on a memorable occasion:—'I am your father, you are my children.' I beseech the Council to think for a moment whether they will be justified in placing this provision before His Highness for sanction.

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Sir, rightly or wrongly, there is an impression that these rules are redolent of want of confidence. These rules cloud the radiance of a progressive administration. They are a violation of the principle that a man's freedom is to be restrained only to the extent of securing the freedom of others. This is not a measure suited to this country where loyalty and obedience to law form the breath of the people. And I would add that when, as if by a magician's wand, society turns out to be turbulent, Government can resort to legislation independent of this Council and meet the situation. I would therefore submit that these provisions should not be permitted to continue in the Statute Book, and I accordingly move that they may be deleted."

Mr. Subrahmanya Pillai, in seconding the motion, said:—

"I beg to second the amendment proposed by Mr. Gopala Pillai. I beg to add that the condition of Travancore is quite different from that of British India. As an instance, I may quote the recent food riots and lootings in various places in British India. These riots took place at a time when the economic distress was not quite so acute as it is at present. But, on the other hand, even now when the economic condition has become worse, the Travancore Government are enabled to go on with relief measures in a very calm atmosphere. My friend Mr. Gopala Pillai has dealt with the subject elaborately, and I do not think that there is much for me to add to what he has said. I firmly believe that the Punitive Police provisions, if not deleted, would really reflect discredit upon the loyal and law-abiding subjects of His Highness the Maha Raja."

Mr. Subba Aiyar:—

"The provisions of Sections 11, 12 and 13 are not new. They have been reproduced word for word from the existing Regulation. I am not therefore called upon to defend the necessity for these provisions. The amending Regulation introducing these provisions was passed in 1084, and these provisions have been in existence for ten years. During this period, there were disturbances in Chenganur, Quilon and Neyyattinkara. Opportunities therefore for putting these provisions into force were not wanting, and yet the Government did not think fit to quarter additional Police in those places. The Government may therefore be safely trusted to make the necessary enquiries and thoroughly satisfy themselves as to the necessity before declaring any area to be a disturbed one and quartering an additional Police in any place. There has not been a single instance in which the power vested in the Government has been abused or improperly exercised. It is for my friend who moves for the deletion of these provisions to make out a case for the same, and I do not think that he has made out one. I need not therefore trouble the Council by going into the principle on which the provisions are based. However, I am prepared to discuss the same and satisfy the Council that there is nothing objectionable in these provisions. It may be conceded that the preservation of peace and order in every place throughout the State is the duty of Government, and the cost of the same has to be met out of the general revenues of the State. But this will apply only to normal conditions. While this is the duty of the State, it is equally the duty of the citizens to obey law. If the inhabitants of a particular locality choose to disobey law and cause disturbance to public peace, they must pay the penalty for it. This cannot be said to affect the freedom of the people or lead to oppression by the Police. In a country like England, where the love for freedom is found to exist more than in any other country, we find provisions similar to Sections 11, 12 and 13, in the Statute Book. If there is a disturbance in any local area, that area is declared to be a disturbed one, and every inhabitant of that area is bound to contribute towards the cost of quartering the additional Police. It is said that the general revenues ought not to be utilised to give relief against the misconduct of the inhabitants of a particular area. This provision of law has been in existence in England for a long time. The only difference between the British Indian Act and the English law is that the former provides for exemptions, while the latter does not. This is due to the fact that, while in England the people are homogenous, the people in British India consist of different castes and creeds. The result is that, while there may be disputes between the Hindus and the Mahomedans, the Christians may be exempt. The inhabitants of a disturbed area are interested in seeing that peace is preserved in that area. All of them have therefore ordinarily to pay, and the exemption has to be made only under exceptional circumstances. The power of exemption is therefore vested in the Government. Coming to the question of principle, we find we are on safe ground. We are supported by precedents in England and in British India. It is next suggested that the provisions under consideration are not consistent with the acknowledged loyalty of the people. Here, I beg to differ from the Mover of the amendment. The contingency for the application of these provisions has not arisen, and I hope will never arise. But that does not mean that we should not have the provisions in the Statute Book. If we refer to the Penal Code, we find that there are many offences created against the person of the Sovereign or against the State. These offences may never be committed, and yet it was not thought necessary to delete them. The provisions of Sections 11, 12 and 13 are exceptional ones, and are intended to be exercised under exceptional circumstances, and the only question is whether for frivolous reasons the Government will impose any unnecessary burden upon the people. This is a matter to be judged by experience, and I have already stated that, though the Regulation was in existence for ten years and though there were occasions for the same, the provisions were not put into force. The Government may therefore be safely trusted not to apply these provisions unless an

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absolute necessity is proved to exist. The retention of these provisions in the Regulation cannot in the least suggest that the loyalty of the subjects of Travancore was or is ever doubted. The power to apportion the cost or to assess damages is vested in the District Magistrates, who are capable and experienced officers on the spot and fully acquainted with the local area. They will, after sufficient enquiry and after taking necessary evidence, ascertain who are really responsible for the riots and apportion the cost. I cannot see anything unreasonable or undesirable in vesting the power in the District Magistrates. With reference to the *Explanation*, I may say that the object of the *Explanation* is to impose responsibility upon all who are in direct touch with the locality and would therefore be in a position to exercise direct influence over its affairs. Absentee landlords, though not residing within the locality, are still inhabitants. Every landlord has not only a right but has also a duty. If a particular person is not a resident but carries on business, then, by construction of law, he becomes an inhabitant of that locality. The Civil Procedure Code recognises the jurisdiction of a Court over a man in cases where he is living outside that jurisdiction. I do not therefore see anything improper or unjust in the Explanation. Taking this as a whole, I may say that no sufficient reasons have been given for deleting these provisions. I therefore beg to oppose the amendment."

Mr. Gopala Pillai :—

"My friend Mr. Subba Aiyar has referred to the riots at Quilon and Neyyattinkara to show that Government did not use the power vested under these provisions at the time. It may be remembered that the Quilon riots took place at a time when these provisions were not in force. The Head of the Administration attributed the riots to the two communities living in Travancore perhaps as a joint action. The communities naturally resented this and held a meeting in Quilon to disclaim their connection in the matter. I mean no disparagement to any one when I say that it is an argument in support of my case, that on certain occasions the Government have to go by the evidence supplied to them by the Police. That is an instance where the Government had committed an error, and perhaps if these provisions were in force, they might have been used improperly. Another incident I would refer to is the Chalai Riot itself. The High Court found that the causes relied upon were not sound and did not exist. The third riot had been sufficiently referred to by me, and I also gave reasons for the step that the Government took on that occasion. It is also worthy of note that there were people who were interested in making out a case in this instance, but it was not acceptable to the Head of the Administration. So far in one instance we have been lucky. Perhaps, in the other instance, if these provisions were in force, it would have been a misfortune. Regarding my friend's reference to the experience of the District Magistrates, I may say that they are also men and that they do not go into the house of every man and that information has to be supplied to them. If the Government are likely to err, there is no reason why a superior officer cannot commit the same blunder. In regard to the point that innocent people have also to contribute for the maintenance of the additional Police quartered in the disturbed area, my friend's arguments have not convinced me. People who may be guilty should be made to pay but not those who are innocent."

Mr. Gopala Pillai's motion was put to the vote and lost.

Mr. Subrahmanya Pillai, in moving that the *Explanation* to Section 11 be deleted, spoke as follows :—

"The offence contemplated in Section 11 is one arising from the personal conduct of the inhabitants of a particular area and, as such, the real offenders could only be the local inhabitants, i. e., the people who actually carry on any business in that particular area. So, I am unable to understand how the word inhabitant can be made to include others who neither reside nor carry on any business personally in such area. The *Explanation* attempts to make an absentee land-lord who holds or collects rent from land or other immovable property, even though it be through agents or servants, and also one who carries on any trade or other business through agents or servants, pay a portion of the cost of such Punitive Police Force. I can understand the case of a servant or agent being held liable for the contribution. But to make one, who permanently resides in a distant place and has no hand in the personal conduct of the people of the disturbed locality, pay a penalty for the offence of others will really come to be regarded in particular instances as a perversion of justice. So, my object in proposing the deletion of the *Explanation* was to prevent unnecessary suffering to innocent persons. But, now I think that not only the real residents but also all those who personally carry on any business in the particular area though not actually residing in it should be included in the term 'inhabitant'. So, I wish to alter my amendment and to propose a change in the wording of the *Explanation* as follows :—

"For the purpose of this Section, 'inhabitants' shall include all persons who personally carry on any business in such area though they do not actually reside therein."

Seconded by Mr. Gopala Pillai.

Mr. Subba Aiyar:—

"In the first place, as I said, the absentee land-lord also has a duty cast upon him. He may be in a position to give information, if he has got any information, in time to see that any particular disturbance does not take place. Again, if his agent or servant was responsible for the disturbance and if they are liable for contribution, I do not see why the absentee land-lord could not be held liable for it. If, on the other hand, he could not give information or if he

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has no agent or servant, he may have a sufficient ground for exemption. Ordinarily, mere absence from the locality will not exempt a man from his liability for contribution towards the cost of quartering the additional Police. He has much interest to see that his property is not molested and that peace is preserved as any one resident in the locality. I therefore beg to oppose the amendment."

The motion was put to the vote and lost.

SECTION 15.

Mr. Mahadeva Aiyar moved that the word "an" be substituted for the words "a Circle" in line 8.

Seconded by Mr. Rajaram Rao.

Carried.

SECTION 23.

Mr. Krishna Aiyangar moved that the words "injury to" be substituted for "damage of" in line 2 of Clause (*h*) of sub-section (1).

Mr. Subba Aiyar accepted the amendment, and it was carried.

SECTION 25.

Mr. Subrahmanya Pillai moved that the following be inserted as Clause (v) :—

"The entering or carrying on of any business by any person or persons in any public or private market."

He said :—

"Markets are generally the places of activity of the local rowdies and pick pockets, and I think it is essential that the District Magistrates should have the power to prevent their entry into the markets. I suggested the insertion of a provision of this kind in the new Municipal Bill when that Bill was under consideration. But it was suggested that the provision might be better inserted in the Police Regulation. I had this observation in mind when I gave notice of this amendment."

Seconded by Mr. Daniel.

Mr. Subba Aiyar :—

"According to the amendment, the District Magistrate will have power to prevent any person from entering or carrying on any business in a public or private market. This may be going too far. So far as the cases referred to by my friend are concerned, Section 35 gives the Police the power to keep order in fairs or markets. This applies to public as well as private markets. The Municipal authority or the District Magistrate may also regulate the business in markets by rules framed under the Municipal or Market Regulation. There does not therefore seem to be any necessity for this provision."

Mr. Krishna Aiyangar :—

"The Criminal Procedure Code has provisions for binding over disorderly persons. The District Magistrate should not prohibit people from entering markets. This may, in certain cases, act as a restraint on individual liberty. This aspect also has to be considered."

The motion was put to the vote and lost.

SECTION 26.

Mr. Govinda Menon, in moving that the words "the delivery of public harangues" in lines 4 and 5 be deleted, spoke as follows:—

"Sir,

I rise to move that the words 'the delivery of public harangues' be deleted from Section 26 of the Bill. In doing so, I am conscious that I am trying to defeat the particular object with which this Section has apparently been introduced into this Bill. I may at the outset say that, though I have taken objection only to the most obnoxious part of it, I do not in the least approve the policy which underlies the enactment of a Section like that under notice. It is coercive in character and violates the fundamental principles upon which every civilised Government is based.

Liberty of speech, Sir, is one of the most sacred and cherished rights among all civilised nations. To put any restraint upon the exercise of that right has always been considered a grave mistake, unless it is so done under extreme necessity and as a last resource. Does such a necessity exist here at present? I am confident that no one who is acquainted with the condition of this country would ever assert that, at present, the enactment of a law against public harangues is necessary in the interests of the welfare of the public at large. The people of this State are now thoroughly loyal and law-abiding. There is no sedition or seditious agitation or conspiracy in this country, which would justify 'a repressive measure of immense potency' for evils like the one provided for in the Bill. Even presuming for argument's sake the existence of such a state of affairs here at this moment, the provision contained in Section 26 of this Bill is so drastic in its nature as would furnish no parallel in the Statute Books of any civilised Government.

Since Great Britain assumed the position of the Paramount Power in India, there was no occasion for the British Indian Government till 1907 to put any check on the public

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utterances of their Indian subjects. In that year, the Seditious Meetings Act was passed empowering Government to prohibit public meetings which were deemed to be seditious or were likely to prove detrimental to public peace or public tranquillity. That Act was to come into operation in any part of India only on the recommendation of a local Government sanctioned by the Government of India, and, though at first it applied when it was put into operation to the whole of the territories under a local Government, its provisions were altered in 1910 so as to enable any local Government to bring it into operation as regards any particular part only of their province. The Seditious Meetings Act as modified in 1910 is an innocent piece of legislation when compared with Section 26 of this Bill. Here is a provision not limiting the application of this coercive power to particular localities when circumstances demand such a step. The Bill, as soon as it is passed into law, would apply to the whole State and would thereafter effectually prevent any expression of public opinion regarding administrative matters on the part of the public which may be distasteful to the official world. Such a state of affairs would stifle all the noble ideals and aspirations of the people regarding the Government of this State. That part therefore of Section 26 which deals with public harangues is a dangerous and unwise provision, and, as the late Mr. Gokhale said of the Seditious Meetings Act, 'the only way to improve it is to drop it'. If it is however retained, the imaginary evil, the spread of which the provision is designed to stamp out, would, in all human possibility, turn out to be true and, if history could be believed, would create a state of affairs which no amount of coercive laws would be able to remedy. I therefore pray you, Sir, not to be a party to include in our Statute Book a provision which adds insult to injury by stamping the loyal subjects of His Highness as a class of disloyal agitators."

Seconded by Mr. Gopala Pillai.

Mr. Subba Aiyar :—

"The object of the provisions of this Section is to prevent the delivery of speeches, etc., which may outrage morality or decency or which may lead to a violation of law and bring about a breach of the peace or bring the lawful authority of Government into contempt, etc. I dare say that none would deny that, if a speech is likely to outrage morality or decency, it is desirable to prohibit the same. I think it is equally desirable in the latter case. I do not think it desirable that the authorities after knowing that a speech of the kind would be delivered, should sit quiet and let the thing pass and wait until the mischief is done and then take action. So far as the exercise of the power is concerned, it is vested in the District Magistrates who will be in a position to know the people well and who are men on the spot. I may say without breach of confidence that, as a matter of fact, in one instance, a person threatened to make a speech, which, if delivered, would have been nothing less than sedition and disloyalty to Government. Fortunately, it did not take place. In such cases, it will not do if the District Magistrates are made to wait till the speech is delivered. The District Magistrate is an officer of superior rank who may be trusted to see that the power vested in him under this Section is not abused. Freedom of speech is in no way interfered with. People may indulge in speaking in any form they like, provided that they do not defy law. I may add that the provision is taken not from the Seditious Meetings Act, but from the Bombay and Calcutta Police Acts which were in existence before the Seditious Meetings Act."

Mr. Krishna Aiyangar :—

"There is no doubt that this Section is going to interfere with the freedom of speech. I am not an advocate of an unlicensed speech which would bring about racial misunderstanding or which would lower the prestige of Government or incite the general public to active resistance to Government measures. But the Section might be so worked in practice that even an honest expression of disapproval of the measures of Government or of any particular policy might be prohibited unless the speaker is thoroughly well-known to the District Magistrate. The expression used in this Section is vague. All that is intended by the Section is, I suppose, that the Government's lawful authority should not be aggressively defied or resistance to such authority not actually incited. If this is the extent to which this measure wants this Council to go, that may be made clear by modifying the last portion of the Section. My friend and myself are perfectly agreed in the undesirability of a man being allowed to stand up in a platform and deliver a speech the tendency of which may be to outrage morality. But all this has to be assumed in the first instance. My friend seems to think that there is not much distinction between harangues and the exhibition of placards, etc. It may be that the District Magistrates may have evidence before them so far as the latter are concerned. But with reference to the thoughts that are passing through the mind of a prospective speaker, to diagnose them correctly in advance, will certainly be a difficult feat for any individual to perform, and I do believe that the District Magistrates are also ordinary individuals like other Judicial officers of the State who form conclusions as a result of the evidence placed before them. This evidence would consist in all probability of confidential reports from the Police. We are every day receiving complaints of respectable people being brought to serious difficulties by the confidential reports sent in by the C. I. D. officers. If we attempt to prohibit public expression of censure, we are naturally driving it underground. For my part, I would prefer the objectionable expression of a man rendering him liable to prosecution being brought before a Court of Law trusting to the ordeal of a legal punishment, rather than rest our faith for preventing it on the exercise of a discretionary power by a Magistrate. When we are conferring

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such extensive powers on the District Magistrates, it will certainly be desirable to state definitely the grounds on which they may take action under the Section. If my friend is not to accept the amendment proposed by Mr. Govinda Menon, I would suggest the desirability of modifying the last line of the Section so as to give it an air of certainty and definiteness about it."

Mr. Govinda Menon in reply spoke as follows :—

"My friend Mr. Subba Aiyar said that there have been instances when threats to deliver seditious speeches have been made by some people to officials and that it was with great difficulty that the officials have been able to prevent those people from putting their threats into execution. I am prepared to admit the fact of this statement, but that would in no way serve as an argument against my motion. It is not the fault of the public if any individual member among them, who may often be a nobody, were to choose to fleece a weak-kneed officer of Government by threatening to deliver what may be termed disloyal speeches. What however are generally termed such speeches are, in most cases, criticisms of their own actions in their official capacity, and it is those among them whose actions would not bear any scrutiny in the lime-light of public criticism who fall victims to these self-styled public men. In any case, instances like these can in no way be quoted as arguments for muzzling the general public. Such a muzzling is too serious a violation of one of the elementary rights of citizenship to be supported by anything except the existence of a state of affairs which, if allowed to continue, would threaten the very foundation of a stable Government. That such a state of affairs does not exist here is patent from the arguments of the learned Mover, and why then Government want to provide themselves with such an autocratic power as is contained in this Section, is indeed a perfect mystery to me. Sir, I have been lately reading the much abused Report of the Rowlatt Committee. Even in that Report the adoption of no such drastic measure as is provided by Section 26 of this Bill is recommended for the suppression of the revolutionary propaganda conducted by the extremist section of the Nationalist party in some parts of India. It is a great pity that, while the death-knell of autocracy has been sounded by the recent triumph of the Allied arms over those of Germany and her confederates, we are trying here in this remote corner of India to give it a new lease of life by formal legislation."

Mr. Govinda Menon's motion was put to the vote and lost.

Mr. Govinda Menon next moved that the following Proviso be inserted at the end of the Section:—

"Provided that no such prohibition shall remain in force for more than seven days without the sanction of Our Government."

Seconded by Mr. Gopala Pillai.

Mr. Subba Aiyar accepted the amendment, and it was carried.

SECTION 27.

Mr. Govinda Menon moved that the words "District Magistrate" be substituted for "Commissioner of Police" in line 1, as the District Magistrate would be in a better position to Judge of the necessity to prohibit a procession or a public assembly, as he is the officer on the spot.

Seconded by Mr. Gopala Pillai.

The Council accepted the amendment.

SECTION 28.

Mr. Subba Aiyar moved that, consequent on the amendment to Section 27, the word "also" in line 1 be deleted.

Seconded by Mr. Mahadeva Aiyar.

Carried.

SECTION 30.

Mr. Subrahmanya Pillai moved that the following be added as a Proviso to sub-section (2):—

"Provided that in all such places of public amusement, assembly or meeting, where admission of the public is regulated by tickets, the entrance of all Police officers and men below the rank of Sub-Inspector shall be either under the personal supervision of an officer of rank not below that of a Sub-Inspector or with written passes issued by such an officer."

In support of the amendment, Mr. Subrahmanya Pillai said:—

"I agree with the Mover in thinking that the Police should be given every opportunity to enter all places of public amusement, assembly or meeting and to do the needful in order to keep the peace and prevent accidents. But, at the same time, it appears to me that some safeguards are necessary to prevent excesses on their part. I have observed for a very long time that, in theatres, circus tents and other places of public amusement, they commit certain excesses and misuse their powers as Policemen. In such places, especially when admission is regulated by payment of money, an unreasonable number of Policemen belonging not only to the local Station but also to the adjacent Stations flock together and demand admission as a matter of right. It is not possible for the proprietors and

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managers of theatres to differentiate the Policemen belonging to the local Station and those belonging to the adjacent Stations. All protests are of no avail, and if the entry of such unreasonable number of Policemen is resisted, the Policemen do not hesitate to use force and even to create disturbance in the theatre itself and trouble later on. In this sort of forced admission, each Policeman seems to be under an obligation to the other, whether he belongs to the same Station or to an adjacent one. In seeking admission in this manner, some appear in their uniform and others without it. Even most of those who appear in their uniform pack it up as soon as they enter the theatre, and, occupying prominent seats in the body of the theatre, enjoy the performance. Thus, the managers and proprietors lose a considerable portion of their income on account of so many seats thus being occupied without payment. They are utterly powerless against these men and, if they protested in the slightest degree, they are sure to be in hot water the next day, if not on the same day. This is invariably the practice, and what I have said is no exaggeration. I myself have felt annoyed on account of this sort of misbehaviour on the part of the Policemen, when I happened to be in charge of a gate once in the local Victoria Jubilee Town Hall, and at another time at Nagercoil in connection with certain benefit performances. Hence, I think that the provision I have suggested will considerably improve matters".

Seconded by Mr. Gopala Pillai.

Mr. Subba Aiyar:—

"I do not think that the amendment is necessary. The Section says that the Sub-Inspector who is present is to issue directions as to the mode of admission, etc., and that it is in his presence the Police Constables are to do anything for carrying out the directions issued to them. The Constables themselves could not do anything. Requiring the written permission of a Sub-Inspector in all cases may, in many instances, frustrate the object of the Section itself. Supposing the Sub-Inspector at a particular meeting is of opinion that a serious disorder is imminent, and he directs the meeting to disperse, oral orders to the Police may be necessary to give effect to his direction. As suggested by my friend, there may be real grievances owing to the Police interfering in the theatres, etc., but I believe that a representation to the superior officers of the Police Department would remove the evil."

The amendment was put to the vote and lost.

SECTION 36.

Mr. Krishna Aiyangar moved that the following Proviso be inserted at the end of sub-section (2).

"Provided that no charges on account of establishments and appliances for extinguishing fire shall be recovered from any Municipality which maintains such establishments and appliances at its own cost."

Mr. Subba Aiyar accepted the amendment, and it was carried.

SECTION 40.

Mr. Raman Pillai moved that the words "of rank" in line 1 be deleted.

Seconded by Mr. Rajaram Row.

Carried.

SECTION 48.

Mr. Krishna Aiyangar moved that the words "upon conviction before a Magistrate" in line 9 be deleted.

Mr. Subba Aiyar accepted the amendment, and it was carried.

Mr. Krishna Aiyangar moved that the Proviso to the Section be deleted.

Mr. Subba Aiyar accepted the amendment, and it was carried.

SECTION 49.

Mr. Gopala Pillai, in moving that the whole Section be deleted, said :—

"The Penal Code sufficiently provides for the offences contemplated in this Section. This Section is therefore unnecessary. What is the difference between false and frivolous charges mentioned in the Section? The only meaning is that the offence is trivial. Again, it is difficult to prove any offence against a Police officer. There are Judicial observations by the High Court on that point and it is a matter of common knowledge also. Under these circumstances, I think that the provision is unnecessary, and I beg to move that the Section be deleted."

Seconded by Mr. Subrahmanya Pillai.

Mr. Subba Aiyar:—

"Of course, there is the general provision in the Penal Code, which would include the Police officer also. This Section will be applied when the offence is against a Police officer. The offender will be equally liable under the Penal Code. Offences committed by Police officers may fall under the Penal Code and yet they have been made special offences under the Bill. I do not see any objection to the retention of this provision."

The motion was put to the vote and lost.

Mr. Krishna Aiyangar moved that the words "on conviction of such offence before any Magistrate" in line 6 be deleted.

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Mr. Subba Aiyar accepted the amendment, and it was carried.

SECTION 50.

Mr. Krishna Aiyangar moved that the words "injury to" be substituted for the words "damage of" in line 6.

Mr. Subba Aiyar accepted the amendment, and it was carried.

Mr. Gopala Pillai moved that the words "after dark" be substituted for the words "between half an hour after sunset and one hour before sunrise" in lines 1 to 3 of Clause (iii), as the Municipal Bill contained the expression suggested by him.

Mr. Subba Aiyar accepted the amendment, and it was carried.

Mr. Gopala Pillai moved that the words "or imitation thereof" be inserted after the word "deformity" in line 2 of Clause (XV), the word "or" occurring before the word "deformity" in the same line being deleted.

Mr. Subba Aiyar accepted the amendment, and it was carried.

Mr. Gopala Pillai moved that the word "public" be inserted before the word "any" in line 2 of Clause (XVI).

Mr. Subba Aiyar accepted the amendment, and it was carried.

Mr. Gopala Pillai moved that the words "when prohibited to do so by a Division Peishkar" be substituted for "not being a place set apart for that purpose" in Clause (XVI).

Seconded by Mr. Subrahmanya Pillai.

After some discussion, the Council resolved to substitute the words "when prohibited to do so by the District Magistrate or some other authority authorised in that behalf" for the words proposed to be deleted.

Mr. Gopala Pillai moved that the word "public" be inserted before the word "place" in line 2 of Clause (XVIII).

Mr. Subba Aiyar accepted the amendment, and it was carried.

Mr. Gopala Pillai moved that the words "imprisonment of either description for a term which may extend to eight days, or" in lines 1 and 2 and the words "or to both" in line 3 of the last para of the Section be deleted.

In moving the amendment, Mr. Gopala Pillai said:—

"Short term imprisonments are generally condemned as a matter of policy. Imprisonment brands a man with infamy. The offences referred to in this Section are more or less akin to those under the Municipal law. In that law, no imprisonment is prescribed for such offences which are too trivial. If the man is unable to pay fine, then we may put in here the imprisonment in default of fine."

Seconded by Mr. Subrahmanya Pillai,

Mr. Subba Aiyar :—

"The wording in question is taken from the existing Regulation. I do not think that imprisonment is ordinarily given as punishment for such offences. It may be necessary to award it in exceptional cases. Supposing a man commits the offence under this Section, say, a dozen times, and that any amount of fine has been of no use, the Magistrate will be driven to the necessity of awarding imprisonment."

The amendment was put to the vote and lost.

SECTION 55.

Mr. Subba Aiyar moved that sub-section (2) be deleted.

Seconded by Mr. Mahadeva Aiyar.

Carried.

SECTION 60.

Mr. Krishna Aiyangar moved that the words "on conviction before a Magistrate" in line 6 of para 1 be deleted.

Mr. Subba Aiyar accepted the amendment, and it was carried.

SECTION 67.

Mr. Gopala Pillai moved that sub-section (6) be recast as follows :—

"If a decree is given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant if sufficient tender of amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into Court after such action brought, by or on behalf of the defendant, unless the Judge before whom the trial is held shall certify his approbation of the action."

Seconded by Mr. Krishna Aiyangar.

After some discussion, the Council resolved to re-write the sub-section as follows :—

"Whenever it is proved to the satisfaction of the Court that, before the suit was instituted, tender of sufficient amends has been made to the plaintiff, the plaintiff shall not recover his

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costs nor any relief not included in such tender, and shall defray the costs of the defendant in the suit."

Mr. Gopala Pillai, in moving that the Proviso to the Section be deleted, said :—

"This is a curtailment of the rights of a subject. Ordinarily, a man may have his remedy under the Criminal or Civil law. If a man's rights should be curtailed, there must be special reasons for it. There is no reason why the rights of a man under the Civil law should be extinguished because his adversary has been prosecuted criminally. It is not proper to say that a man should make up his mind beforehand to seek Civil or Criminal remedy."

Seconded by Mr. Govinda Menon.

Mr. Krishna Aiyangar —

"Even though the Criminal prosecution ends in an acquittal by the Magistrate, under the Section no Civil action can be brought against the man. That is another difficulty."

President :—"He has undergone all the troubles of a Criminal prosecution in the public interests. Of course, this provision is an exception to the general law."

Mr. Subrahmanya Pillai:—"It is not easy to bring a Police officer to conviction in a Criminal case."

Mr. Subba Aiyar:—

"The Policeman has always been treated separately from the rest of the public servants for various reasons. His actions are always criticised, however honest he may be. He has to be unpopular with the public in the discharge of his duty. If he goes wrong, there is no doubt that the aggrieved party should have some sort of action, and the law gives him the Criminal action or a Civil action. But in order that the Policeman may discharge his duty efficiently, it is thought better to exempt him from one or other of the actions. The Policeman's duties are as I said peculiar and delicate, and that is probably the reason why the Legislatures in all the British Indian provinces have enacted this provision. Even in the existing Regulation, we have got the same provision. This is nothing new. There has been no grie[vance] for the last forty years during which the Regulation has been in force. In the interests of the Police Force, it is desirable that he must be harassed only once and not twice."

After some discussion, the motion was put to the vote and lost.

SECTION 71.

Mr. Krishna Aiyangar moved that the words "the names of the complainants" in lines 5 and 6 be transposed before the words "the names of all persons arrested" in line 5.

Mr. Subba Aiyar accepted the amendment, and it was carried.

SECTION 72.

Mr. Subba Aiyar moved that the word "to" in line 3 be deleted.

Seconded by Mr. Chacko.

Carried.

The consideration of the Bill being over, Mr. Subba Aiyar moved that the Bill as settled by the Council be read again on a future day of which notice should be given.

Seconded by Mr. Rengaswami Aiyangar.

Carried.

THE MOTOR VEHICLES REGULATION AMENDMENT BILL.

SECTION 17.

Mr. Subba Aiyar moved that the words "one hundred" and "two hundred" be substituted for the words "fifty" and "one hundred" in lines 4 and 5.

Seconded by Mr. Mahadeva Aiyar.

Carried.

Mr. Subba Aiyar next moved that the Bill be finally read and passed.

Seconded by Mr. Rengaswami Aiyangar.

Carried.

The Council adjourned at 4-45 P. M.

M. KRISHNAN NAIR,
President.

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